



10 MAR 2005

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In re Application of	:	
BAKER et al.	:	
Application No.: 09/786,492	:	DECISION ON PETITION
PCT No.: PCT/EP99/06423	:	UNDER 37 CFR 1.181
Int. Filing Date: 31 August 1999	:	
Priority Date: 09 September 1998	:	
Attorney Docket No.: C70366	:	
For: NOVEL COMPOSITION AND USE	:	

This decision is in response to applicants' "Renewed Petition under 37 CFR 1.181" filed 25 February 2005. No petition fee is required.

BACKGROUND

On 31 August 1999, applicants filed international application PCT/EP99/06423, which claimed a priority date of 09 September 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 16 March 2000. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 09 March 2001.

On 06 March 2001, applicants filed a transmittal letter for entry into the national stage in the United States accompanied, inter alia, by: the basic national fee; a copy of the international application; and a preliminary amendment.

On 03 April 2001, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) must be filed. The notification set a one-month time limit in which to respond.

On 28 May 2002, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that the application was abandoned for failure to file a complete response to the Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) within the time period set therein.

On 20 June 2002, applicants filed a petition under 37 CFR 1.181 and an executed declaration. In a decision dated 27 January 2005, applicants' petition to withdraw the holding of abandonment was dismissed without prejudice.

On 25 February 2005, applicants filed the present renewed petition under 37 CFR 1.181.

DISCUSSION

In response to the Notification of Abandonment mailed 28 May 2002, applicants state that the Notification of Missing Requirements under 35 U.S.C. 371 was not received. With regards to applicants' request that the holding of abandonment be withdrawn, a proper showing in order to establish that papers were not received as set forth in the Official Gazette at 1156 OG 53 must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket record must also be referenced in practitioner's statement).


Applicants have satisfied item (1),(2), and (3) above.

CONCLUSION

For the reasons above, the request is GRANTED. The holding of Abandonment is withdrawn.

The application has an international filing date of 31 August 1999 under 35 U.S.C. 363 and a 35 U.S.C. 371(c) date of **20 June 2002**.

This application is being returned to the United States/Designated Elected Office for processing in accordance with this decision.



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